



NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

RAMON DE JESUS CONTRERAS and
MARIA DEL ROSARIO CONTRERAS,

Debtors.

Case No.: 2:11-bk-17125-RK

Chapter 7

**ORDER DENYING TRUSTEE'S (SECOND)
MOTION FOR ORDER GRANTING RELIEF
FROM MAY 1, 2013 ORDER AUTHORIZING
SURCHARGE AND DISTRIBUTION OF
CASH COLLATERAL AND VACATING THE
AUGUST 1, 2017 HEARING**

Vacated Hearing:

Date: August 1, 2017

Time: 2:30 p.m.

Courtroom: 1675

Pending before the court is the Motion of Carolyn T. Dye, Chapter 7 Trustee, for Order Granting Relief from May 1, 2013 Order Authorizing Surcharge and Distribution of Cash Collateral (Docket No. 566), filed on July 11, 2017. Christian T. Kim, of the law firm of Dumas & Kim, APC, represents the Chapter 7 Trustee.

Having reviewed the Motion, the court determines that oral argument is not necessary, dispenses with it, vacates the hearing noticed for August 1, 2017 at 2:30 p.m. and rules as follows.

1 The court notes that the Motion seeks the same relief as a prior motion with the
2 same title (Docket No. 561), which was denied by order filed and entered on June 2,
3 2017. The Motion now before the court, Trustee's second motion seeking the same
4 relief, suffers from the same infirmities as the first motion.

5 First, as with the prior motion, Trustee has not properly served Bank of America,
6 N.A. and Bank of New York-Mellon, N.A. pursuant to Federal Rules of Bankruptcy
7 Procedure 9013, 9014 and 7004(h) by certified mail as these respondents are FDIC-
8 insured depository institutions at their addresses listed on the FDIC Bank Find search
9 feature. Second, as with the prior motion, Trustee's moving papers do not give
10 meaningful notice to Bank of America and Bank of New York-Mellon that Trustee seeks
11 an order negating the ordered distribution on their secured claims because no
12 meaningful information was given in the moving papers about the loans and collateral
13 relating to these secured claims for them to make an informed decision about allowing
14 the money ordered to them will be redistributed (or converted) to the estate to pay other
15 creditors. Third, as with the prior motion, Trustee's motion is based on inadmissible
16 hearsay that Bank of America and Bank of New York-Mellon no longer want their money
17 ordered by the court. **Simply refiling a prior defective motion without correcting**
18 **any of the defects identified by the court in an order on the prior motion is not**
19 **effective legal advocacy and will not work.**

20 Trustee and her counsel, Mr. Kim, are admonished not to refile this motion
21 without correcting any of the defects previously pointed out to them by the court in its
22 prior order and in this order. If Trustee and her counsel persist in refiling a motion
23 without correcting the deficiencies of the prior motions, the court will seriously consider
24 the imposition of sanctions against each of them pursuant to Federal Rule of
25 Bankruptcy Procedure 9011.

26 IT IS HEREBY ORDERED THAT:

27 1. The Motion is DENIED.

28 2. Denial of the Motion is without prejudice to filing an amended motion which

1 corrects the defects previously identified by the court.

2 3. The hearing on the Motion on August 1, 2017 at 2:30 p.m. is VACATED.

3 **IT IS SO ORDERED.**

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25 Date: July 28, 2017



Robert Kwan
United States Bankruptcy Judge